

## MINUTES

### DEPARTMENT OF WATER SUPPLY COUNTY OF HAWAI'I WATER BOARD MEETING

June 30, 2009

Waimea Community Center, Kamuela

MEMBERS PRESENT: Mr. Riley Smith, Chairperson  
Mr. Dwayne Mukai, Vice-Chairperson  
Mr. Francis Kuailani  
Mr. Bryan Lindsey  
Mr. Robert Meierdiercks  
Mr. Art Taniguchi  
Mr. Milton Pavao, Manager, Department of Water Supply  
(ex-officio member)

ABSENT: Mr. George Harai, Water Board Member  
Ms. Millie Kim, Water Board Member  
Ms. Bobby Jean Leithead-Todd, Director, Planning Department (ex-officio member)  
Mr. Warren Lee, Director, Department of Public Works (ex-officio member)

OTHERS PRESENT: Mr. Craig Masuda, Deputy Corporation Counsel  
Mr. Christopher J. Bennett, Watanabe Ing LLP

#### Department of Water Supply Staff

Mr. Quirino Antonio, Jr., Deputy Manager  
Mr. Kurt Inaba, Engineering Division Head  
Ms. Candace Pua, Assistant Waterworks Controller  
Mr. Daryl Ikeda, Chief of Operations  
Ms. Kanani Aton, Public Information and Education Specialist  
Mr. Lawrence Beck, Engineering Division  
Mr. William Yamamoto, Water Service District Supervisor II, South Kohala (arrived 11:10 a.m.)  
Mr. Andrew Higa, Water Service District Supervisor I, South Kohala (arrived 11:10 a.m.)

CALL TO ORDER - Chairperson Smith called the Meeting to order at 10:05 a.m.

#### STATEMENTS FROM THE PUBLIC:

None.

APPROVAL OF MINUTES:

ACTION: Chairperson Smith entertained a Motion to approve the Minutes of the May 26, 2009, Water Board Meeting. Mr. Mukai so moved; seconded by Mr. Kuailani and carried unanimously by voice vote.

APPROVAL OF ADDENDUM AND/OR SUPPLEMENTAL AGENDA:

None.

PUNA:

A. **UTILITY AGREEMENT NO. 2020 – KEA`AU-PĀHOA ROAD, SHOULDER LANE CONVERSION, KEA`AU BYPASS ROAD TO SHOWER DRIVE, FEDERAL AID PROJECT NO. STP-0130(28):**

This Utility Agreement (UA), for the subject project that includes or affects the Department of Water Supply (DWS) water systems, is required for State Highways projects.

The UA sets forth the responsibilities and liabilities of each agency regarding the water system within the State Right-of-Way. It also includes the provisions for future improvements and/or maintenance requirements by either the State or DWS. The contents of this UA are consistent with previous executed agreements, as well as the requirements of HRS 264-33. Construction plans for this project have been approved by DWS.

Staff has reviewed the subject UA, and finds it acceptable as submitted.

*Note: There is no additional cost to DWS associated with this Utility Agreement.*

The Manager recommended that the Water Board approve UTILITY AGREEMENT NO. 2020 – KEA`AU-PĀHOA ROAD, SHOULDER LANE CONVERSION, KEA`AU BYPASS ROAD TO SHOWER DRIVE, FEDERAL AID PROJECT NO. STP-0130(28), and authorize either the Chairperson or Vice-Chairperson to execute the document subject to the review and approval of the Corporation Counsel.

MOTION: Mr. Meierdiercks moved to approve; seconded by Mr. Mukai.

The Manager explained that this was a standard utility agreement between DWS and the State. The agreement involves no cost to DWS, whose only obligation is to provide inspection without charge.

Chairperson Smith asked if the Queen Ka`ahumanu Highway widening, where the waterline had to be replaced, involved a utility agreement.

The Manager said no utility agreement was involved in that case, because the initial design assumed that the waterline was buried deeply enough. That project was done 20 to 25 years ago, and the State absorbed the liability since the original contracting company no longer existed when the too-shallow waterline was uncovered.

A lengthy discussion ensued regarding what entity was responsible for the shallow burial of the waterline. The Manager confirmed that the project was done by the State, with DWS accepting the dedication of the system. DWS did not construct the system, he added.

Chairperson Smith, anticipating the upcoming next phase of the Queen Ka`ahumanu Highway widening, urged DWS to ensure that all of the as-built plans are accurate.

The Manager confirmed that DWS would be participating in the next phase, and would be putting in a bigger waterline.

Mr. Lindsey asked if DWS has its own inspectors.

The Manager confirmed that DWS has inspectors in Hilo and Kona, who inspect whatever project has the *potential* of being dedicated back to DWS. This includes subdivisions with private water systems. A County ordinance stipulates that subdivisions having water systems must comply with DWS standards – whether or not the water system is ultimately dedicated to DWS.

ACTION: Motion carried unanimously by voice vote.

#### SOUTH HILO:

##### **A. JOB NO. 2007-926, HAKALAU IKI SPRING REMEDIATION:**

The contractor, Ed Higa General Contracting, has requested a 49-calendar day time extension. This time extension request is because of delays due to a faulty conductivity probe. The probe could not be calibrated properly and after it went through in-situ troubleshooting, the factory concluded that it needed to be replaced. The probe was reordered, and a new probe was shipped from the factory and finally reinstalled.

Subsequently, the SCADA programming and testing had to be rescheduled until the new probe could be installed. This resulted in further delays because of unavailability of field personnel to do the SCADA programming and testing.

*Note: There is no additional cost to DWS associated with this time extension.*

Staff has reviewed the request and finds that the 49 calendar days are justified. This is the fourth time extension request. Previous extensions are listed as follows:

<b>Request</b>	<b>Time Requested</b>	<b>From</b>	<b>To</b>
First Time Extension	62 Calendar Days	January 27, 2009	March 30, 2009
Second Time Extension	57 Calendar Days	March 30, 2009	May 26, 2009
Third Time Extension	35 Calendar Days	May 26, 2009	June 30, 2009
<b>Fourth Time Extension</b>	<b>49 Calendar Days</b>	<b>June 30, 2009</b>	<b>August 18, 2009</b>

The Manager recommended that the Board approve a contract time extension of 49 calendar days to JOB NO. 2007-926, HAKALAU IKI SPRING REMEDIATION. The contract completion date will be revised from June 30, 2009 to August 18, 2009.

MOTION: Mr. Meierdiercks moved to approve; seconded by Mr. Kuailani.

The Manager confirmed that since the May Water Board meeting, the mandatory monitoring period has begun. He noted that the contractor should not be penalized for the delay caused by the monitoring period mandated by the State Department of Health.

ACTION: Motion carried unanimously by voice vote.

**A. JOB NO. 2002-802, CONSTRUCTION OF THE PI‘IHONUA RESERVOIR NO. 2 REPLACEMENT, DISTRICT OF SOUTH HILO, HAWAI‘I, COUNTY OF HAWAI‘I, STATE OF HAWAI‘I:**

Bids were opened on June 18, 2009, at 2:00 p.m.; and the following are the bid results:

<b>Bidder</b>	<b>Amount</b>
<b>Isemoto Contracting Co., Ltd. (Lowest Responsible Bidder)</b>	<b>\$6,505,870.00</b>
Ledcor Construction Hawaii, LLC	\$6,737,125.00
Goodfellow Bros., Inc.	\$6,952,420.00
E.M. Rivera & Sons, Inc.	\$7,405,373.75
Jas W. Glover, Ltd.	\$7,584,710.00

Engineer’s Construction Cost Estimate: \$7,000,000.00.

Construction Contract Duration: Four hundred eighty (480) calendar days.

Project Scope: The project consists of: a 2.0-MG prestressed concrete tank, control building, booster pump station, reservoir influent control station, pressure reducing valve station, facility piping and connecting pipelines, drainage structures, electrical work, instrumentation, approximately 1,700 linear feet of 8-inch waterline with attendant service re-connections and fire hydrant assemblies, asphalt concrete paving and repaving work, site perimeter fencing, demolition of the existing reservoir site, and landscaping.

The project cost will be as follows:

Project Cost:

1) Low Bidder (Isemoto Contracting Co., Ltd.)	\$6,505,870.00
2) Construction Contingency (~8%)	<u>494,130.00</u>
Total Construction Cost:	<u>\$7,000,000.00</u>

Funding for this project will be from DWS C.I.P. funds.

Department Staff has reviewed the bids and finds the bid from Isemoto Contracting Co., Ltd., acceptable as submitted.

The Manager recommended that the Board award the contract for JOB NO. 2002-802, CONSTRUCTION OF THE PI‘IHONUA RESERVOIR NO. 2 REPLACEMENT, DISTRICT OF SOUTH HILO, HAWAI‘I, COUNTY OF HAWAI‘I, STATE OF HAWAI‘I, to the lowest responsible bidder, Isemoto Contracting Co., Ltd., for their bid amount of \$6,505,870.00 plus \$494,130.00 for construction contingency for a total contract amount of \$7,000,000.00, and

that either the Chairperson or the Vice-Chairperson be authorized to sign the contract, subject to review as to form and legality of the contract by Corporation Counsel.

MOTION: Mr. Lindsey moved to approve; seconded by Mr. Kuailani.

The Manager explained that the existing reservoir is built into the ground, and is located above Hilo Medical Center. The reservoir, with a capacity of 800,000 gallons, is very old and has been in need of replacement for a long time. The new reservoir will be more reliable and provide much more storage for the hospital and surrounding area customers.

Mr. Meierdiercks asked if the existing tank will stay in place until the new tank is ready to go.

The Manager confirmed that it would stay in place, since there is plenty of room up there. The old tank is in a conservation district, so the underground portion of the tank will remain while the visible above-ground portion will be removed. Okahara and Associates is the contractor, he added.

Chairperson Smith asked if this tank was a DYK, Inc., tank, and asked how the design and construction of this tank would differ from the Kawaihewa tank.

The Manager said the Pi`ihonua tank is a prestressed, wire-wrapped tank. The contractor will construct an interior shaft, and the tank is wrapped with multiple strands of wire whose tension is controlled by machine. The roof structure of this tank is similar to that of the Kawaihewa tank, he noted. The main difference between the two tanks is that the Pi`ihonua tank is prestressed with wire, whereas the Kawaihewa's prestressing is within the wall itself (and *not* wire-wrapped around the tank).

Chairperson Smith noted that the DYK representative at the San Diego conference confirmed this wraparound technique, and reported that it works really well.

The Manager noted that DWS has had really good results with its DYK tanks so far.

The Deputy Manager said that the Waiaha tank (by DYK), finished prior to the 2006 earthquake, withstood that quake with flying colors.

The Manager said that both the Kawaihewa Tank and the DYK tank have prestressing of their walls, and both tanks' construction meet Zone 4 requirements, stipulated by the County.

Mr. Meierdiercks asked that the Water Board be allowed to visit sites of similar proposed projects, to gain a better understanding of how tanks are designed and constructed.

ACTION: Motion carried unanimously by voice vote.

## HĀMĀKUA:

### **A. JOB NO. 95-621, CONSTRUCTION OF THE PŌHĀKEA WATER SYSTEM IMPROVEMENTS, HĀMĀKUA, HAWAI'I, COUNTY OF HAWAI'I, STATE OF HAWAI'I:**

The contractor, Willocks Construction Corporation, has requested a 45-calendar day time extension. This request is because of an unforeseen delay due to the existing concrete bridge on Pōhākea/Pa`auilo Homestead Road (Bridge 45-3). This bridge has a 12-ton weight restriction that became an issue during construction of the tank upgrades (Change Order No. 6).

The contractor investigated alternate routes to the project sites, but found much weaker wooden bridges on these alternate routes. Therefore, the contractor sought approval from the Department of Public Works (DPW) to cross Bridge 45-3 with their concrete trucks. After a lengthy deliberation, DPW reanalyzed the bridge, and allowed the contractor to cross the bridge with a reduced load in the concrete trucks.

Staff has reviewed the request and finds the 45 calendar days are justified. This is the seventh time extension request. Previous extensions are listed below:

- 1st time extension – 225 calendar days
- 2nd time extension – 153 calendar days
- 3rd time extension – 152 calendar days
- 4th time extension – 91 calendar days
- 5th time extension – 92 calendar days
- 6th time extension – 1,704 calendar days
- **7th time extension – 45 calendar days**

*Note: There is no additional cost to DWS associated with this time extension.*

The Manager recommended that the Board approve the contract time extension of 45 calendar days to JOB NO. 95-621, CONSTRUCTION OF THE PŌHĀKEA WATER SYSTEM IMPROVEMENTS, HĀMĀKUA, HAWAI'I, COUNTY OF HAWAI'I, STATE OF HAWAI'I. Upon approval, the contract completion date will be extended from June 30, 2009 to August 14, 2009.

MOTION: Mr. Mukai moved to approve; seconded by Mr. Lindsey.

The Manager said that the contractor's request for an extension is justified because of the problem with crossing the bridge. He noted that there were many reasons for why this project has taken so long, with the bridge crossing the latest reason. Other reasons included getting easements, quake damages, HELCO delays, etc.

Chairperson Smith wondered why the bridge issue arose.

The Manager said that when the project began, the bridge crossing was not an issue. It only came up when the Department of Public Works began earthquake retrofitting.

Chairperson Smith said that he wanted this project to be over and done with.

ACTION: Motion carried unanimously by voice vote.

SOUTH KOHALA:

**A. ASSIGNMENT OF USE AND OCCUPANCY AGREEMENT AND CONSENT (MAUNA LANI SERVICE, INC./WATER BOARD/DEPARTMENT OF TRANSPORTATION):**

At its May 26, 2009, meeting, the Water Board approved the acceptance of an assignment of the Use and Occupancy Agreement (UOA) between the State of Hawai'i through its Director of Transportation (DOT), and Mauna Lani Service, Inc., contingent upon the execution of the UOA as Mauna Lani had submitted it to DOT.

Since that meeting, the Attorney General for DOT made minor changes to the UOA and to the consent form attached to the Assignment of Use and Occupancy Agreement and Consent between Mauna Lani Service, Inc., and the Water Board. Because of those changes, DWS requests that the Water Board re-approve the revised Assignment of Use and Occupancy Agreement and Consent.

The Manager recommended that the Water Board re-approve the ASSIGNMENT OF USE AND OCCUPANCY AGREEMENT AND CONSENT between Mauna Lani Service, Inc. and the Water Board, and authorize either the Chairperson or the Vice-Chairperson to execute the Assignment of Use and Occupancy Agreement and Consent, subject to the review and approval of the Corporation Counsel.

MOTION: Mr. Meierdiercks moved to approve; seconded by Mr. Kuailani.

Chairperson Smith clarified that DWS will not be paying any fees to State Highways Division to cross the highway; Mauna Lani will pay.

Mr. Inaba confirmed that DWS will not pay any fees in the future to cross the State highway.

ACTION: Motion carried unanimously by voice vote.

NORTH KONA:

**A. JOB NO. 2009-954, KAHALU`U SHAFT PUMP NO. 1 REPAIR:**

Bids were opened on June 5, 2009, at 2:00 p.m.; and following are the bid results:

<b>Bidder</b>	<b>Bid Amount</b>
Derrick's Well Drilling & Pump Services, LLC	\$215,459.44
Beylik Drilling & Pump Service, Inc.	\$238,223.00

Project Scope: This project consists of the removal and replacement of the existing motor, discharge head, line shaft pump, column pipe, inner column assembly, and appurtenances of the Kahalu`u Shaft Pump No. 1.

Project Cost:

1) Low Bidder (Derrick's Well Drilling & Pump Services)	\$215,459.44
2) Construction Contingency (10%)	<u>\$ 20,540.56</u>
<b>Total Construction Cost:</b>	<b>\$236,000.00</b>

Funding for this project will be from DWS's C.I.P. Budget under Deepwell Pump Replacement. The contractor will have 180 calendar days to complete this project. The Engineering estimate was \$215,000.00.

The Manager recommended that the Board award the contract for JOB NO. 2009-954, KAHALU`U SHAFT PUMP NO. 1 REPAIR, to the lowest responsible bidder, Derrick's Well Drilling & Pump Services, for their bid amount of \$215,459.44, plus \$20,540.56 in construction contingency for a total contract amount of \$236,000.00. It is further recommended that either the Chairperson or the Vice-Chairperson be authorized to sign the contract, subject to review as to form and legality of the contract by Corporation Counsel.

MOTION: Mr. Lindsey moved to approve; seconded by Mr. Kuailani.

The Manager said this was a straightforward project to repair one of the five pumps in the shaft. The repair work involves going down into the shaft to replace the pump. The pump that is being replaced pumps water from the shaft to the tank up above ground.

Chairperson Smith thanked Mr. Beck for the photos of the site.

ACTION: Motion carried unanimously by voice vote.

**B. JOB NO. 2004-839, KEŌPŪ-PU`UHONUA PRODUCTION WELL AND 1.0 MG RESERVOIR:**

The contractor, Isemoto Contracting Co., Ltd., requests an 82-calendar day time extension. This request is due to the delay resulting from HELCO and Hawaiian Telcom work.

Staff has reviewed the request and finds that the 82 calendar days are justified.

This is the fourth extension request. The first time extension granted at the April 22, 2008, meeting was for 91 calendar days from August 19, 2008, to November 18, 2008. The second time extension granted at the November 25, 2008 was for 197 calendar days from November 18, 2008, to June 3, 2009. The third extension was granted at the May 26, 2009 Water Board Meeting, for 37 calendar days, from June 3, 2009 to July 10, 2009.

*Note: There is no additional cost to DWS associated with this time extension.*

The Manager recommended that the Board approve a contract time extension to Isemoto Contracting Co., Ltd., of eighty-two (82) calendar days from July 10, 2009 to September 30, 2009, for JOB NO. 2004-839, KEŌPŪ-PU`UHONUA PRODUCTION WELL AND 1.0 MG RESERVOIR.

MOTION: Mr. Meierdiercks moved to approve; seconded by Mr. Kuailani.

The Manager said the time extension was related to HELCO and Hawaiian Telcom work, and noted that in his experience, most project delays were linked to HELCO and Hawaiian Telcom. DWS is sometimes criticized for not making requests to HELCO and Hawaiian Telcom early enough, but in fact the Department submits its requests way in advance.

Mr. Lindsey promised to help expedite matters involving his company, Hawaiian Telcom.

ACTION: Motion carried unanimously by voice vote.

**C. FIRST SUPPLEMENTAL WELL DEVELOPMENT AGREEMENT - LANIHAU PROPERTIES, LLC, WEST HAWAI'I BUSINESS PARK, LLC, PALANI RANCH COMPANY, INC.:**

The Well Development Agreement between Lanihau Properties, LLC, West Hawai'i Business Park, LLC, Palani Ranch Company, Inc., and the Water Board was approved at the Board Meeting on June 27, 2006 and executed on August 22, 2006. Now that the well has been drilled, cased, and tested, Lanihau, West Hawai'i Business Park and Palani Ranch desire to enter into this First Supplemental Well Development Agreement which details the well capacity as well as the requirements to outfit the well and its supporting facilities to obtain the water allocations for their Honokōhau Properties. This First Supplemental Agreement also outlines the allocation of and initial assignment as well as subsequent assignment(s) of equivalent units.

The Manager recommended that the Water Board approve this First Supplemental Well Development Agreement, and authorize either the Chairperson or Vice-Chairperson to execute the Agreement subject to the review and approval of the Corporation Counsel.

Mr. Masuda noted that parties to the Agreements listed as Item 9C and Item 9D asked that these items be deferred due to issues with the agreements.

Chairperson Smith noted that he would be changing jobs and will begin working for Lanihau Properties beginning July 1, 2009, so that in the future he would be recusing himself from any voting involving his employer.

ACTION: Mr. Meierdiercks moved to defer; seconded by Mr. Mukai. Motion passed unanimously by voice vote.

**D. OFF-SITE IMPROVEMENT AGREEMENT – WEST HAWAI'I BUSINESS PARK:**

Lanihau Properties, LLC, and West Hawaii Business Park, LLC (WHBP) wish to enter into this "Off-Site Improvement Agreement" (Off-Site Agreement) to provide potable water to the West Hawaii Business Park Development (WHBP Project), included in their Honokōhau Properties as described in the Well Development Agreement. This Off-Site Agreement describes the allocation of equivalent units and the water system improvements required by WHBP in order to provide potable water to the WHBP Project. The off-site improvements include but are not limited to, a 0.5-million gallon concrete reservoir and transmission mains adequate to service the WHBP Project. A portion of the project will be serviced by the existing water system adjacent to the WHBP Project.

This Off-Site Agreement is subject to the terms set forth in the Well Development Agreement and the First Supplemental Well Development Agreement if approved.

The Manager recommended that the Water Board approve this Off-Site Improvement Agreement and authorize either the Chairperson or Vice-Chairperson to execute the Agreement subject to the review and approval of the Corporation Counsel.

*(Item 9D deferred along with Item 9C above.)*

KA‘U:

A. **JOB NO. 2002-809, PĀHALA PRODUCTION WELL AND SUPPORTING FACILITIES:**

The contractor, Isemoto Contracting Co., Ltd., requests a 51-calendar day, no-cost time extension, due to the additional time required for Hawaiian Electric Light Company (HELCO) to remove the existing HELCO transformers, and due to weather-related delays on December 15, 2008 and March 9, 2009.

This is the fourth time extension request. The previously approved time extensions are listed below:

- Time Extension #1: Project extended 97 calendar days to allow for additional time required to obtain the County Building permit.
- Time Extension #2: Project extended 42 calendar days to allow for additional time required to return the undersized pump power cable to the Mainland and ship the required pump power cable to the project site.
- Time Extension #3: Project extended 38 calendar days to allow additional time for HELCO to install the new electric service lines.

This is a no-cost time extension. Engineering staff has reviewed this time extension request and finds that the additional 51 calendar days are justified.

The Manager recommended that the Water Board approve a contract time extension to Isemoto Contracting Co., Ltd. of 51 calendar days from June 29, 2009 to August 19, 2009, for JOB NO. 2002-809, PĀHALA PRODUCTION WELL AND SUPPORTING FACILITIES.

ACTION: Mr. Mukai moved to approve; seconded by Mr. Kuailani. Motion carried unanimously by voice vote.

MISCELLANEOUS:

A. **ENERGY PERFORMANCE CONTRACT:**

The Manager reported that the Department is still in the process of evaluating the most efficient way to do Energy Performance Contracts. He noted that there are so many variables involved and so many things that DWS *can* do. DWS is working to pick things that will bring to DWS the maximum benefit for the amount of money DWS will spend. That decision has not been made yet, he said.

Chairperson Smith said that Energy Specialist Ms. Julie Myhre, as a member of the County's Green Team, should continue her efforts regarding energy conservation and sustainability. Noting that the Mayor has recently selected nominees to the Energy Commission, the Chairperson suggested that Ms. Myhre coordinate her efforts with commission members including former Water Board Chairperson Mr. Tom Goya.

**B. DEDICATION OF WATER SYSTEMS:**

The Department received the following documents for action by the Water Board. The water systems have been constructed in accordance with the Department's standards and are in acceptable condition for dedication.

- 1. GRANT OF EASEMENT:**  
(For Access Purposes, Hakalau Iki Spring)  
Grantor: Kevin L. Hill and Kimberly C. Hill  
TMK: (3) 2-9-004: Portion 099

The Manager recommended that the Water Board accept these documents subject to the approval of the Corporation Counsel and that either the Chairman or the Vice-Chairman be authorized to sign the documents.

MOTION: Mr. Meierdiercks moved to approve; seconded by Mr. Kuailani.

Mr. Inaba noted that the dedication was to provide access to the Hakalau Iki Spring project.

ACTION: Motion carried unanimously by voice vote.

**C. POWER COST ADJUSTMENT CLAUSE:**

A Public Hearing on the Power Cost Adjustment Clause was held today. Public Hearing Notice was published in the Hawai'i Tribune-Herald and in the West Hawai'i Today on June 5 and 7, 2009.

The Department's new power cost charge (PCC) formula allows updating of the PCC as often as every two months. The PCC was changed to its present \$2.38 per 1,000 gallons effective January 1, 2009, and has allowed the Department to recover 93% of the actual power costs paid to HELCO since July 2008.

As the Department's power costs have been decreasing, it is appropriate to lower the PCC to more closely reflect the Department's actual power costs. As of May 2009, the PCC computes to \$1.83 per 1,000 gallons ( $\$9,772,897 / 5,346,747$  gallons).

The Manager recommended that the Water Board approve the proposed cost of the Power Adjustment Clause per thousand gallons based on the above discussion, effective the first day of the month after proposed establishment of the rate by the Water Board.

Chairperson Smith noted that a Public Hearing was held earlier regarding the recommendation to revise the Cost of Power Adjustment Clause stated above.

MOTION: Mr. Mukai moved to approve; seconded by Mr. Lindsey.

The Manager said it was unfortunate that the data always lags by two months, including HELCO'S billing to DWS. Therefore, any adjustment of the PCC is based on data that is two months old. He noted that when the Public Hearing Notice was published, the current data (as of April 2009) put the PCC at \$1.93 per 1,000 gallons. Since publication of the Public Notice, the May data put it at \$1.83. The Manager said he checked with Mr. Masuda of Corporation Counsel, who said it was okay to deviate from what was published in the Public Notice as long as the Water Board approves it. Therefore, it would be acceptable for the Water Board to approve the \$1.83 per 1,000 gallons. The Manager noted that gas prices have risen substantially over the past two months, while HELCO's charges to DWS have not yet reflected the rise in gas prices. It is virtually certain that the next time the data comes in, the PCC will be much higher than \$1.83. To approve the \$1.83 charge would mean that the Department will lose money, because what DWS pays to HELCO is going to be more than what DWS collects, he said.

Chairperson Smith said that the current methodology approved by the Water Board late last year gave the Board the flexibility to adjust the PCC every two months, instead of only once a year. He noted that when the Water Board approved the methodology it was known that it was not perfect, but it was better than before. He said that because the Board needs to adjust the charge according to the most current available data, the Board should go with the \$1.83. The Board's goal is to have a transparent system so that the public can know that the Board is not intentionally trying to overcharge customers for the costs that DWS incurs, he said. The Board also does not want the public to think that DWS is trying to get back the \$2 million that the Department lost last year, he added. The Board is trying to improve DWS's systems and charge customers what it costs the Department for the water it provides to customers.

The Manager said that because the Department is on a two-month billing cycle, DWS is always going to be two months behind in its data. It is virtually guaranteed that the data in July will be higher than \$1.83, and therefore it is a certainty that the Department will come back to the Board two months from now to seek a further adjustment of the Power Cost charge.

Chairperson Smith asked whether HELCO could give DWS a preview of what the next billing will be.

The Manager said that the Energy Specialist (Ms. Myhre) had asked HELCO, but was unable to get the information. In the meantime, the only data that DWS has to go on is the May data, while it is certain that rising gas prices will put June's data much higher.

Mr. Mukai spoke in favor of changing the PCC to \$1.83, the figure based on the most current available data. Not to reduce the PCC to \$1.83 would be a disservice to DWS customers.

The Manager noted that the Public Notice gave a range of between \$1.93 and \$2.38.

Chairperson Smith said that Corporation Counsel said that the Board has the flexibility to either go with \$1.83 or \$1.93.

Mr. Masuda reviewed what the Board cannot do. The Board, for example, cannot say in a Public Notice something like “\$2 or below,” because that would be too broad-ranging. The Board needs to set an actual amount, so setting a specific range would be acceptable. However, if the Board decides to deviate from the range it published in the Public Notice, it can do so. It would be up to the Board to assess whatever charge it chooses. For example, if the Public Notice says it is for \$5, the Board does not necessarily have to approve \$5; it is just a recommendation. In public testimony, if for example, somebody proposed a charge of \$6 instead, the Board can take that proposal and rule accordingly.

Chairperson Smith said that the Board has the latitude in this case to decide \$1.83, \$1.93 or keep the charge at its current level.

A discussion ensued on how HELCO adjusts its rates, based on a Public Utilities Commission formula. By comparison, DWS as a government entity cannot merely go with a formula when it changes rates, the Manager noted. According to statute, DWS, unlike HELCO, is required to hold a Public Hearing whenever the Department changes its rates or charges. Therefore, DWS as a government entity does not have the flexibility that HELCO has to change rates.

Mr. Taniguchi asked how DWS came up with the \$1.83 and \$1.93.

The Manager said that the figures were based on consumption information and HELCO’s charges as of April and May, respectively. He explained that not every DWS customer is on the same billing schedule, but that every customer is billed every two months.

Mr. Taniguchi noted that he had asked Corporation Counsel, at the May Water Board Meeting, if the Board has to approve a PCC *when it knows* that fuel prices are rising and that DWS would lose as a result. He wondered if the Board must approve it, or can the Board just defer it. He lamented not having more current data available upon which to base a decision. Mr. Taniguchi asked if the Board could hold a Public Hearing every month on a revised PCC.

The Manager said no, the Board cannot change the charge more often than every two months, under the ruling made by the Water Board.

Chairperson Smith confirmed this, saying that it was based on the 30-day Public Notice period.

Mr. Mukai asked Mr. Masuda if the Board can defer this item to the July Water Board Meeting without holding another Public Hearing, with the intent of getting more updated data.

Mr. Masuda said that because the Public Hearing Notice put the revised PCC at a range, and today the public was given an opportunity to speak at the Public Hearing, the Board *could* decide to defer without holding another Public Hearing. However, to do so would be a disservice to the public because the Board would now be likely to consider a different charge. In any case, DWS will always be a month behind because of the Public Hearing period.

Mr. Meierdiercks, noting that the Public Notice gave a range of between \$1.93 and \$2.38, recommended that the Board lower the charge to \$1.93, the lowest charge stated in the Public Notice. This would show the public that DWS lowered it as low as stated in the Public Notice. While that would be higher than the \$1.83 based on the latest data, everybody knows that gas prices are going up as of July 1 when the excise tax is re-imposed on ethanol and it will affect DWS immediately as well.

Chairperson Smith said the Board needed to agree on a charge that is defensible. The latest, most current, data available today substantiates a charge of \$1.83. Whenever the Board makes a decision, the Board needs to be mindful that West Hawai'i Today or the Tribune-Herald could call and ask the Chairperson or the Manager how they came to this decision. The Chairperson believed the defensible choices for the Board are either to approve \$1.83 or to defer.

The Manager agreed with the Chairperson, and believed that the right thing to do was go with \$1.83. The Department can come back in two months and ask the Board to re-examine the charge at that time.

The Deputy Manager said he agreed with Mr. Meierdiercks's recommendation of going with \$1.93, because the Public Notice gave the range of between \$1.93 and \$2.38.

The Manager said that the issue is that the Department's most current data substantiates \$1.83. The bottom line is what is current at the time of the Public Hearing; in this case, the current data is \$1.83.

Chairperson Smith said the Board needs to be consistent by following the formula which uses the most current available data. He noted that there was a Motion on the floor, although the Motion was somewhat vague. The Motion gives the Board the latitude to go between \$1.93 and \$2.38, or any level.

There was some confusion as to whether there was a Motion on the floor. The Secretary noted that the recommendation on the Agenda was moved by Mr. Mukai and seconded by Mr. Lindsey.

Chairperson Smith said the Motion was to adjust the PCC, and asked if an amended Motion was needed.

AMENDED MOTION: Mr. Mukai moved to amend the Motion to reflect a Power Cost Adjustment Clause of \$1.83 per 1,000 gallons; seconded by Mr. Lindsey. Motion carried unanimously by voice vote.

Chairperson Smith asked Ms. Aton to issue a press release on the revised charge.

Mr. Kuailani raised a point of order, noting that the Board now needed to vote on the main Motion as amended.

ACTION: Main Motion, as amended, carried unanimously by voice vote.

D. **MONTHLY PROGRESS REPORT:**

Mr. Taniguchi asked for an explanation of the grand total for DWS construction projects of \$47,752,027 listed in the Monthly Progress Report, against \$65 million in projects listed in the Monthly Financial Statements.

Chairperson Smith suggested that Mr. Taniguchi pose specific questions to Waterworks Controller Mr. Rick Sumada, and requested that the responses be reported at the July Water Board Meeting. He noted that the revamped, simplified Monthly Progress Report was a work in progress, and was still being fine-tuned.

E. **REVIEW OF MONTHLY FINANCIAL STATEMENTS:**

*(This item was inadvertently skipped over, but Chairperson Smith returned to it following the Chairperson's Report.)*

F. **WATER RATE STUDY:**

No discussion.

G. **MANAGER'S REPORT:**

The Manager provided an update on the following:

- 1) Update on use agreement on KIC wells: While KIC has still not gotten back to DWS, the Department is eager to reach an agreement. The Manager noted that fortunately for DWS, KIC's proposed development is right above the Kahalu'u Shaft. It would be advantageous for DWS to take some of KIC wells' water down to the shaft. Chairperson Smith noted that there were leadership changes at KIC underway, with CEO Greg Chun leaving as of June 30, and Ray Soon in line for a possible trusteeship.
- 2) Palani Road Transmission Project: This project is finally out to bid, with bid opening on July 23, 2009. The project estimate is \$15.7 million, and amid the economic situation, DWS is anxious to see how the bid prices come in. Chairperson Smith asked what impact the project would have on traffic circulation. The Manager said that there would be virtually no impact, until one line crosses perpendicular to Palani Road. The only foreseeable impact would be the construction trucks going up and down with piping, etc. He noted that the transmission line mainly goes on the south side of Palani Road. Chairperson Smith said the Department needs to present clear information to the media regarding the project's scope and its impact on traffic. The Manager said the purpose of the project was to bring the mauka water makai, which would reduce the need for shaft pumping and thereby improve the quality of the water for the people of Kailua town. In addition, it will enable DWS to serve the fast-growing Kealakehe area including the Villages at Lai'o'pua and other Hawaiian Homelands development

projects. The project will provide a good transmission system to divert water to those areas; however, it will not increase DWS capacity.

- 3) AWWA ACE 09 (National Conference): The Manager reported on a class at the conference on educating public officials on the complexity of a water department. This was very useful because many officials are unaware of what is involved in providing a reliable, safe source of drinking water. He purchased the book “Water Basics for Decision Makers,” which he highly recommended. The book was very expensive, so it was not feasible to buy copies for each of the Water Board members. The book is available on loan to Water Board members, through the Secretary. Chairperson Smith expressed thanks to the Manager for the great dinner he hosted for the Hawai‘i delegation to the conference.
- 4) Kona Water Round Table: Ms. Aton reported that it will be held on July 22, 2009 from 8:30 to 12:30 at Kona Outdoor Circle, in partnership with Palamanui. Parking will be on the makai shoulder of Kuakini Highway, above the facility. There have been 60 RSVPs so far for the informational meeting, whose theme is “Understanding the History, Design and Use of Injection Wells.” Chairperson Smith noted that Board members are welcome to attend, but under Sunshine Law they are barred from talking Board business.
- 5) Computer Use – Internet/Email Policy: The Manager said that DWS has a very strict policy on computer use. The Department’s IT person installed a special program several years ago to block out access to certain websites such as E-Bay. The Department has an internal policy on computer use, which each employee required to read and initial to ensure everyone is aware. DWS has gone beyond what other County departments have done to ensure proper computer use. The DWS email server was recently changed to make it more dependable, provide more storage and decrease capability of how much employees can receive. The Manager wants to see the start of a document imaging system, and the IT person is currently working on it with Corporation Counsel to ensure whatever the Department does is legal. Chairperson Smith said it was important, in light of allegations recently raised by Council members Pete Hoffmann and Dominic Yagong about County workers surfing the Internet, that the Department independently checks and monitors for Internet or email abuse, and takes appropriate action to see that any abuse stops.
- 6) Sustainability/Energy/Green Team Update: The Manager noted that the Green Team, to which Energy Specialist Ms. Myhre belongs, recently conducted a survey of commuting patterns by County employees (how employees get to work, by what size of vehicle if driving oneself, how long the commute is, etc.) On sustainability, the Department’s Hilo main office and the Hilo Baseyard staff have made progress, diverting some 314 pounds of trash from the landfill through recycling. Ms. Myhre is expanding the recycling efforts to the other three baseyards, with the amount of diverted trash expected to double.

#### H. CHAIRPERSON’S REPORT:

Chairperson Smith said that the Water Board’s role is to provide policy direction to the Department, not to meddle in day-to-day activities. Along these lines, various Water Board members have different areas of expertise and experience. He cited Mr. Taniguchi’s

financial background at Bank of Hawai‘i, where there are credit card policies to prevent abuse. He also cited Mr. Mukai, who is working on the take-home automobile policy with the Deputy Manager. The Chairperson said it was important to make sure that the Department is a tightly-run ship so it does not end up on the front page.

The Manager said he appreciated Mr. Taniguchi’s help, citing his involvement in simplifying the Monthly Progress Report. He said he also appreciates the feedback and advice of the Board, to help strengthen the Department. The aim is to ensure the Department’s semi-autonomous status, which enables DWS to operate without any political influence.

Chairperson Smith said he agreed.

Mr. Taniguchi reminded Chairperson Smith that he had missed Item 11E (Monthly Financial Statements).

Chairperson Smith took up **Item 11E** at this point.

Mr. Taniguchi asked Ms. Pua, filling in for Waterworks Controller Mr. Rick Sumada, what the Power Purchase Revenue was for May. He was under the impression that Mr. Sumada would give the Power Purchase Revenue as a separate breakdown in the Monthly Financial Statements, as he had at the May Water Board Meeting. Mr. Taniguchi noted that as of the May figures, the Department is \$2 million in the black, with one more month to go in the fiscal year. He expressed hopes that some of those funds could be put towards C.I.P. He said he hoped that Mr. Sumada would separate out the Power Purchase Revenue in future Monthly Financial Statements.

The Manager noted that Mr. Sumada was unable to attend today’s meeting due to illness, but that he expected him to be back for next month’s Water Board Meeting.

Ms. Pua reported that the Power Purchase Revenue for May was \$2,058,243.

#### ANNOUNCEMENTS:

##### 1. **Next Meeting:**

The next Meeting of the Water Board will be held on July 28, 2009 at 10:00 a.m. the Department of Water Supply Operations Center, 889 Leilani Street, Hilo.

##### 2. **Following Meeting:**

The following meeting of the Water Board will be held on August 25, 2009 at 10:00 a.m. in Kona at the Royal Kona Resort, Resolution Room, 75-5852 Ali‘i Drive, Kailua-Kona.

#### STATEMENTS FROM THE PUBLIC:

None.

**ADJOURNMENT:**

ACTION: Chairperson Smith called for the Meeting to be adjourned. Mr. Taniguchi so moved; seconded by Mr. Mukai, and carried unanimously by voice vote. Meeting adjourned at 11:35 a.m.

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Senior Clerk-Stenographer

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